

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING
OCT 13 2005
Stephan Harris, Clerk
Cheyenne

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

BIODIVERSITY CONSERVATION)	
ALLIANCE and SIERRA CLUB,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 04-CV-361-B
)	
MOUNTAIN CEMENT COMPANY,)	
)	
Defendant.)	

ORDER

On October 12, 2005, this Court issued an Order finding that Plaintiffs had provided sufficient notice to Defendant of their intention to file the above-captioned citizen enforcement suit, as required by 42 U.S.C. § 7604(b)(1)(A) and 40 C.F.R. § 54.3(b). However, during the Final Pretrial Conference on October 13, 2005, the Court realized that additional issues of fact must be resolved before a definitive finding regarding the sufficiency of the notice can be made.

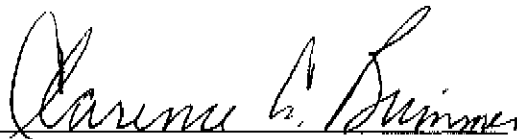
THEREFORE, IT IS HEREBY ORDERED that the portion of the October 12, 2005, Order pertaining to the sufficiency of Plaintiffs' notice should be, and hereby is, **RESCINDED**. More specifically, this Order rescinds the section of the Order entitled

"C. Defendant's Motion for Summary Judgment Concerning Notice," which appears on pages eleven (11) through fifteen (15) of the Order.

IT IS FURTHER ORDERED that the parties will address the notice issue in their Trial Briefs and present such issue to the jury for their determination.

IT IS SO ORDERED.

Dated this 13th day of October, 2005.


UNITED STATES DISTRICT JUDGE